

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ROY DEN HOLLANDER, on behalf of himself and all others
similarly situated,

Plaintiff,

-against-

INSTITUTE FOR RESEARCH ON WOMEN AND GENDER
GENDER AT COLUMBIA UNIVERSITY; SCHOOL OF
CONTINUING EDUCATION AT COLUMBIA UNIVERSITY;
TRUSTEES OF COLUMBIA UNIVERSITY IN THE CITY OF
NEW YORK; UNITED STATES DEPARTMENT OF
EDUCATION; MARGARET SPELLINGS, UNITED STATES
SECRETARY OF EDUCATION, in her official and individual
capacity; BOARD OF REGENTS OF THE UNIVERSITY OF
THE STATE OF NEW YORK, in his or her official and
individual capacity; CHANCELLOR OF THE BOARD OF
REGENTS, ROBERT M. BENNETT, in his official and
individual capacity; NEW YORK STATE COMMISSIONER OF
THE DEPARTMENT OF EDUCATION, RICHARD P. MILLS,
in his official and individual capacity; and PRESIDENT OF THE
NEW YORK STATE HIGHER EDUCATION SERVICES
CORPORATION, JAMES C. ROSS, in his official and individual
capacity,

Defendants.
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: 08 Civ. 7286 (LAK)(KNF)
: ECF Case
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**NOTICE OF
MOTION**

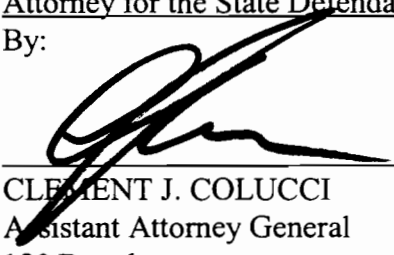
PLEASE TAKE NOTICE that defendants the Board of Regents of the University of the State of New York (“Regents”), Robert M. Bennett, Chancellor of the Board of Regents, Richard P. Mills, Commissioner of the New York State Education Department (“SED”), and James C. Ross, President of the New York State Higher Education Services Corporation (“HESC”) (collectively the “State Defendants”)¹ will move this Court at the Courthouse, 500 Pearl Street,

¹ Although the complaint names Chancellor Bennett, Commissioner Mills and President Ross in their individual and official capacities, the complaint seeks only injunctive relief of the type properly brought against state officials solely in their official capacities. See Hafer v. Melo, 502 U.S. 21, 27 (1991); Ex Parte Young, 209 U.S. 123, 154 (1908). The

New York, New York 10007, on a date and time to be determined by the Court, for an order dismissing the complaint pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, together with such further relief as the Court deems just and proper.

Dated: New York, New York
October 24, 2008

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complaint also names the Board of Regents, a collective body composed of male and female members, see New York Education Law § 202, “in his or her individual capacity.” The collective body, of course, has no individual capacity. The proper practice is to name the individual members of the Board of Regents, and sue them in the appropriate capacities – in this case their official capacities.

Southern District of New York
Attorney for Federal Defendants
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